

Message Text

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C O N F I D E N T I A L ASUNCION 2452

E.O. 11652: GDS
TAGS: PORG, OAS, PA
SUBJECT: GOP BACKGROUND PAPER TO RESPOND TO IAHRG REPORT

SUMMARY. A GOP OFFICIAL PROVIDED EMBASSY WITH A BACKGROUND PAPER WRITTEN TO RESPOND TO CRITICISMS IN THE IAHRG REPORT ON PARAGUAY. THE REPORT WAS RELEASED TO GOVERNMENTS AT THE END OF JANUARY. A SUMMARY OF THE POINTS CONTAINED IN THE PAPER ARE PROVIDED BELOW. WHITE IT ADMITS NO CULPABILITY, THE TONE OF THE REPORT IS BASICALLY CONCILIATORY AND ASKS THAT THE IAHRG INVESTIGATE THE PROBLEM IN GREATER DEPTH.
END SUMMARY.

1. THE PAPER BEGINS WITH THE EXPLANATION THAT THE GOP HAD NOT REPLIED TO THE REQUESTS FOR INFORMATION FROM THE IAHRG WITHIN THE ALLOTTED TIME PRIOR TO AUGUST 1977 DUE TO "INTERNAL ADMINISTRATIVE DEFICIENCIES". HOWEVER, THE PAPER STATES THAT THE FOREIGN MINISTER, DR. ALBERTO NOGUES, PERSONALLY HANDED OVER A MEMORANDUM TO IAHRG PRESIDENT, DR. AGUILAR, ON AUGUST 10, 1977 WHICH GAVE AN EXPLANATION TO EACH OF THE CITED CASES. THE REPORT SAYS THAT SINCE THAT DATE THE FOREIGN MINISTRY HAS RESPONDED ON TIME TO ALL REQUESTS FROM THE COMMISSION WHICH SHOULD BE TAKEN TO MEAN THAT THE GOP IS PREDISPOSED
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TOWARD NORMAL RELATIONS WITH THE COMMISSION IN THE FUTURE.

2. REGARDING INDIVIDUAL PRISONERS, THE PAPER NOTES THAT THE NUMBER OF PERSONS BEING HELD UNDER ARTICLE 79 OF THE CONSTITUTION HAS DIMINISHED CONSIDERABLY SINCE AUGUST 10, 1977. THE REPORT THEN STATES THAT PRISONERS BEING PROCESSED UNDER THE JUDICIARY (LAW 209) ARE GUARANTEED THE RIGHTS OF DUE PROCESS.

(A LIST IS ATTACHED OF 34 PRISONERS' NAMES HELD UNDER ARTICLE 79 AND A LIST OF 18 HELD UNDER LAW 209 FOR A TOTAL OF 52 PRISONERS, DOWN FROM 220 IN AUGUST 1977.)

3. IN A SECTION ON THE EXISTING SITUATION REGARDING THE RIGHTS OF MAN, THE REPORT DENIES THAT "PARAGUAY LIVES UNDER AN EXTRA-ORDINARY LEGAL SYSTEM" IN WHICH INDIVIDUAL RIGHTS ARE SUBORDINATED TO THE WILL OF AN ABSOLUTE AUTHORITY. IT MAINTAINS THAT ALL GOVERNMENTAL ACTS ARE IN ACCORDANCE WITH WITH LAW OF THE LAND. IT DECLARES THAT THE ARTICLES OF THE PARAGUAYAN CONSTITUTION, THE EXPRESSION OF THE WILL OF THE PARAGUAYAN PEOPLE, CANNOT BE DISPUTED IN ANY WAY BY ANY FOREIGN NATION OR INTERNATIONAL ORGANIZATION. IT THEN CAUTIONS THE COMMISSION TO TAKE CARE IN ANALYSING SITUATIONS IN ALL OAS COUNTRIES LEST ITS GOOD INTENTIONS OF PROTECTING HUMAN RIGHTS CROSS THE LIMIT OF THE PEOPLE'S LEGITIMATE RIGHT TO DEFEND THEMSELVES AGAINST CRIME AND TERRORISM CARRIED OUT BY THOSE WHO WISH TO DESTROY THE INSTITUTIONS AND SYSTEM OF GOVERNMENT.

4. THE PAPER CHALLENGES THE FEAR EXPRESSED IN THE IAHRC REPORT THAT THE STATE OF SIEGE, ALTHOUGH LEGITIMATE UNDER THE CONSTITUTION, HAS BECOME SOMETHING PERMANENT RATHER THAN A RESPONSE TO AN EMERGENCY SITUATION. THE REPORT STATES THAT THE FEARS OF THE IAHRC ARE UNDOUBTEDLY EXPRESSED IN GOOD FAITH BUT ARE UNFOUNDED AS DEMONSTRATED BY THE FACT THAT SINCE MAY 2, 1978 THE STATE OF SIEGE HAS ONLY BEEN IN FORCE IN THE CAPITAL AND,
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IF THE SITUATION CONTINUES TO BE NORMAL, THE STATE OF SIEGE WILL BE LIFTED COMPLETELY.

5. IN RESPONSE TO CRITICISMS ON VIOLATIONS OF THE RIGHT TO LIFE, LIBERTY, HABEAS CORPUS AND LEGAL PROCESS, AND THE RIGHT TO THE INTEGRITY OF THE PERSON, THE BRIEFING PAPER NOTES THAT ALL CHARGES HAVE NOW BEEN ANSWERED AND THE FACT THAT THE RESPONSE WAS NOT MADE IN TIME SHOULD NOT OBSCURE THE FACT AS TO WHETHER THE CHARGES ARE TRUE OR NOT. THE GOVERNMENT IS PREPARED TO SUPPORT ITS REPLIES WITH DOCUMENTARY EVIDENCE, SAYS THE REPORT, AND POINTS TO THE LEGAL RECORD PROVIDED TO THE COMMISSION REGARDING THE FALARTIGA CASE WHICH IT DESCRIBES AS A TYPICAL "CRIME OF PASSION" WITH NO POLITICAL CONNOTATIONS AS ALLEGED IN THE REPORT. IT CLAIMS THAT THE GOP UNDERSTANDS THE IAHRC'S GOOD INTENTIONS AND "ONLY ASKS THAT THE PROBLEM BE INVESTIGATED IN GREATER DEPTH IN RESPECT TO PARAGUAY".

6. IN DENIAL OF THE CRITICISM THAT JUDGES WORK WITH HANDS TIED AND SUBJECT TO PRESSURES, THE PAPER DESCRIBES THE JUDICIAL SYSTEM AND POINTS OUT THE STERLING TRATS OF THE JUDGES. IT ALSO CRITICIZES THE CLAIM THAT JUDGES HAVE TO RECOGNIZE HABEAS CORPUS AGAINST THE PROVISIONS OF THE CONSTITUTION

AS BEING TANTAMOUNT TO FORCING THEM TO BETRAY THEIR TRUST.

7. IN A SHORT REBUTTAL OF THE COMMISSION'S CHARGES THAT THE RIGHTS TO FREEDOM OF THOUGHT, OF INFORMATION, OF MEETING AND ASSOCIATION ARE CIRCUMSCRIBED, COPIES OF OPPOSITION NEWSPAPERS ARE PRESENTED AS EVIDENCE TO THE CONTRARY. THE REPORT ALSO CLAIMS THAT POLITICAL PARTIES AND ASSOCIATIONS OF ALL PERSUASIONS CAN HAVE RADIO PROGRAMS, CAN TAKE ADVANTAGE OF ALL MEANS OF SPREADING IDEAS AND THEIR ABILITY TO HOLD MEETINGS FOR LEGITIMATE PURPOSES ARE GUARANTEED.

8. COMMENT: THE REPORT UNDERSTANDABLY GLOSSES OVER PARAGUAY'S SINS. REMARKABLE IS ITS CONCILIATORY TONE AND OFFER TO COOPERATE WITH THE IAHC. A CONTRAST TO THE SITUATION UP UNTIL A YEAR AGO
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WHEN THE GOP REFUSED TO ANSWER ANY INQUIRIES FROM THE IAHC. ON THE NEGATIVE SIDE, THE REPORT'S CONTENTION THAT THE PARAGUAYAN CONSTITUTION IS INVIOLE AND CANNOT BE DISPUTED BY OTHER GOVERNMENTS OR INTERNATIONAL ORGANIZATIONS, PRESUMABLY EVEN IF IT SANCTIONS THE VIOLATION OF HUMAN RIGHTS, IS UNACCEPTABLE.
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